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## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
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Hearing Date: 2/10/06



### STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-04-114

**APPLICANT:** Mehrdad and Manouher Naraghi      **AGENT:** Deborah Waldrip

**PROJECT LOCATION:** 23118 Saddle Peak Road, Topanga (Los Angeles County)

**PROJECT DESCRIPTION:** Construction of a two-story, 3,450 sq. ft. single-family residence with attached 850 sq. ft., three-car garage, driveway, turnaround, septic system, swimming pool, spa, retaining walls, lot line adjustment, landscaping, and approximately 1,159 cu. yds. of grading (996 cu. yds. cut; 163 cu. yds. fill) at 23118 Saddle Peak Road, Topanga, Los Angeles County.

<b>Lot area:</b>	0.94 acre
<b>Building coverage:</b>	2,330 sq. ft.
<b>Pavement coverage:</b>	4,950 sq. ft.
<b>Landscaped area:</b>	3,060 sq. ft.
<b>Ht. abv. fin. grade:</b>	26 ft. and 35 ft.
<b>Parking spaces:</b>	6

**LOCAL APPROVALS RECEIVED:** Los Angeles County Approval-in-Concept, Los Angeles County Health Department conceptual approval for private sewage disposal system, Los Angeles County Fire Department approval of Preliminary Fuel Modification Plan and approval of driveway and turnaround access areas.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains Land Use Plan; "Preliminary Geologic and Soils Engineering Study," GeoSoils, Inc., October 2, 1989; "Updated Geologic and Geotechnical Engineering Study," GeoSoils Consultants Inc., October 29, 2004; County of Los Angeles, Certificate of Compliance No. 100,730 for Lot Line Adjustment, recorded Document No. 89-666098 on April 27, 1989.

**STAFF NOTE: DUE TO PERMIT STREAMLINING ACT REQUIREMENTS THE COMMISSION MUST ACT ON THIS PERMIT APPLICATION AT THE FEBRUARY 2006 COMMISSION HEARING.**

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **APPROVAL** of the proposed project with **THIRTEEN (13) SPECIAL CONDITIONS** regarding (1) revised plans, (2) geologic recommendations, (3) drainage and polluted runoff control, (4) landscaping and erosion control plans, (5) assumption of risk, (6) structural appearance, (7) lighting restriction (8) pool/spa drainage and maintenance, (9) removal of excess material, (10) future development, (11) deed restriction, (12) oak tree protection, and (13) condition compliance. The standard of review for the proposed project is the Chapter 3 policies of the Coastal Act. In addition, the policies of the certified Malibu/Santa Monica Mountains Land Use Plan serve as guidance.

**STAFF RECOMMENDATION:**

**I. Approval with Conditions**

The staff recommends that the Commission adopt the following resolution:

**MOTION:**        *I move that the Commission approve Coastal Development Permit No. 4-04-114 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. Standard Conditions**

**1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or

authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

**2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

**3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

**4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

**5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **III. Special Conditions**

#### **1. Revised Plans**

***Prior to issuance of the Coastal Development Permit***, the applicant shall submit, for the review and approval of the Executive Director, revised grading plans showing that no grading/slope trimming shall occur within the drip line of any oak trees on-site.

#### **2. Plans Conforming to Geologic Recommendations**

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the submitted geologic reports: "Preliminary Geologic and Soils Engineering Study" by GeoSoils Inc., dated October 2, 1989, and the "Updated Geologic and Geotechnical Engineering Study" by GeoSoils Consultants Inc., dated October 29, 2004. These recommendations, including those concerning foundations, excavation, grading, retaining walls, sewage disposal, and drainage, shall be incorporated into all final design and construction, and must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, sewage disposal, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

### 3. Drainage and Polluted Runoff Control Plans

**Prior to the issuance of the Coastal Development Permit**, the applicant shall submit to the Executive Director for review and written approval, two sets of final drainage and runoff control plans, including supporting calculations. The final plans shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plans shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85<sup>th</sup> percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

### 4. Landscaping and Erosion Control Plans

**Prior to issuance of the Coastal Development Permit**, the applicant shall submit two sets of final landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the criteria set forth below. All development shall conform to the approved landscape and erosion control plans.

#### A. Landscaping Plan

- (1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- (4) The permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (5) Vegetation may be removed and selectively thinned in order to reduce fire hazard, in accordance with an approved long-term final fuel modification plan submitted pursuant to this special condition. The Final Fuel Modification Plan shall include details regarding the types, sizes, and location of plant materials to be removed, and how often thinning is to occur. The applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- (6) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum Bromadiolone or Diphacinone) shall not be used.
- (7) Vertical landscape elements shall be planted around the proposed residence to soften views of the development as seen from Saddle Peak Road. All landscape elements shall be native/drought resistant plants.

- (8) No permanent irrigation is permitted within the dripline or protected zone (5 feet beyond dripline) of oak trees, as shown on Exhibit 3, and landscaping within the oak tree driplines or the five-foot protected zones shall be limited to native oak tree understory plant species.

## **B. Interim Erosion Control Plan**

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

## **C. Monitoring**

Five (5) years from the date of occupancy, the applicant shall submit for the review and approval of the Executive Director a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that assesses the on-site landscaping and certifies whether it is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage. Failure to comply with deadlines to

submit the landscape monitoring reports will result in a violation of the subject permit and the commencement of enforcement proceedings, including potential judicial action and administrative orders, as well as the recordation of a notice of violation in the chain of title for the property.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to these permits, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The supplemental landscaping plan must be prepared by a licensed landscape architect or qualified resource specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The permittee shall implement the remedial measures specified in the approved supplemental landscape plan.

## **5. Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire, erosion, and landslides; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement.

## **6. Structural Appearance**

***Prior to the issuance of the Coastal Development Permit***, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of Coastal Development Permit 4-04-114. The palette samples shall be presented in a format not to exceed 8 1/2" x 11" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, retaining walls, driveway, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones). Including shades of green, brown and gray with no white or light shades, galvanized steel, and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and materials authorized pursuant to this special condition. Alternative colors or materials for future repainting, resurfacing, or new windows may only be applied to the structures authorized by Coastal Development Permit 4-04-114 if such changes are specifically authorized by the Executive Director as complying with this special condition.

## 7. Lighting Restriction

- A. The only outdoor night lighting allowed on the subject parcel is limited to the following:
- 1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
  - 2) Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60-watt incandescent bulb.
  - 3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60-watt incandescent bulb.
- B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

## 8. Pool and Spa Drainage and Maintenance

By acceptance of this permit, the applicant agrees to install a no chlorine or low chlorine purification system and agrees to properly maintain pool water pH, calcium, and alkalinity balance to ensure any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

## 9. Removal of Excess Excavated Material

***Prior to the issuance of the Coastal Development Permit***, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

## 10. Future Development Restriction

This permit is only for the development described in Coastal Development Permit 4-04-114. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit 4-04-114. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by these permits, including but not limited to the single-family residence, garage, swimming pool, spa, septic system, hardscaping, clearing or other disturbance of vegetation, or grading other than as provided for in the approved fuel modification/landscape plan, erosion control and drainage plans prepared pursuant to Special Conditions Three (3) and Four (4), shall require an amendment to Coastal Development Permit 4-04-114 from the Commission or shall require additional coastal development permits from the Commission or from the applicable certified local government.

## **11. Deed Restriction**

***Prior to the issuance of the Coastal Development Permit***, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to these permits, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and Special Conditions of these permits as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant’s entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## **12. Oak Tree Protection**

To ensure that on-site oak trees are protected during grading and construction activities, protective barrier fencing shall be installed around the drip line of all oak trees during construction operations.

Should any of the on-site oak trees be lost or suffer worsened health or vigor as a result of the project, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program to ensure that the replacement planting program is successful. Upon submittal of the replacement planting program, the Executive Director shall determine if an amendment to Permit No. 4-04-114, or an additional coastal development permit, from the Commission is required.

As mitigation for development impacts to any oak tree, at least ten replacement seedlings, less than one year old, grown from acorns collected in the area, shall be planted on the project site. An annual monitoring report on the oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years.

### **13. Condition Compliance**

Within 180 days of Commission action on this coastal development permit application, or within such time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

### **IV. Findings and Declarations**

The Commission hereby finds and declares:

#### **A. Project Description and Background**

The proposed project site is located on a 0.94-acre parcel along the west side of Saddle Peak Road, at the southwest corner intersection with Sadie Road, within the Santa Monica Mountains in Los Angeles County (**Exhibits 1 and 2**). The subject parcel is within the uppermost watershed of Las Flores Canyon and situated atop a north-trending ridge at an elevation of about 2,400 feet above sea level.

The applicant proposes to construct a two-story, 3,450 sq. ft. single-family residence with attached 850 sq. ft. subterranean garage, driveway, turnaround, septic system, swimming pool, spa, retaining walls, landscaping, and approximately 1,159 cu. yds. of grading (996 cu. yds. cut; 163 cu. yds. fill) (**Exhibits 3-8**). Access to the proposed development will be provided from the proposed driveway off Sadie Road to the north. The applicant has also included in this coastal development permit application, a request for after-the-fact approval of a lot line adjustment concerning the adjacent parcel to the south that is under separate ownership (Los Angeles County Certificate of Compliance for Lot Line Adjustment No. 100, 730, recorded Document No. 89-666098 on April 27, 1989). The after-the-fact lot line adjustment resulted in the exchange of two 1,174 sq. ft. equal area slivers of land along the shared property boundary necessitated by the encroaching driveway associated with the residence to the south (**Exhibit 10**).

Existing single-family residences are situated immediately south of the subject parcel and to the east along the east side of Saddle Peak Road. Vegetation on the project site has been largely cleared and disturbed since the parcel is bounded on two sides by roads and is entirely located within the fuel modification area of the residence to the south. The area to the west of the building site is characterized by steeply descending

hillside covered predominantly with disturbed chaparral vegetation. The maximum difference in elevation across the site is approximately 102 feet.

The eastern portion of the proposed building site is bounded by a relatively steep road cut along Saddle Peak Road. A portion of this road cut slope area has been identified as a landslide feature by the consulting geologist. The western portion of the building site also contains a small landslide feature (**Exhibit 9**). Slope trimming, consisting of 126 cu. yds. of cut (included in the 996 cu. yds. cut project total above), is proposed by the applicant to remediate these areas.

## **B. Geologic and Wildfire Hazard**

The proposed development is located in the Santa Monica Mountains, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

Section **30253** of the Coastal Act states in pertinent part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

## **Geology**

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The applicant has submitted a Preliminary Geologic and Soils Engineering Study, dated October 2, 1989, as well as an Updated Geologic and Geotechnical Engineering Study for the proposed project prepared by GeoSoils Consultants Inc., dated October 29, 2004. The reports evaluate the engineering properties, relative stability, and geologic structure of the earth materials underlying the subject property with respect to the proposed development. The reports identify a small area on the west side of the building site and a portion of the steep road cut slope on the east portion of the parcel as requiring remediation due to the presence of landslide features. The consultant concludes that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated in the proposed development. The geotechnical

reports contain several recommendations to be incorporated into project grading, construction, drainage, foundations, and sewage disposal to ensure the stability and geologic safety of the proposed project site and adjacent property.

In order to ensure that the recommendations of the geologic consultant have been incorporated into all proposed development, the Commission, as specified in **Special Condition Two (2)**, requires the applicant to incorporate the recommendations cited in the geotechnical reports into all final design and construction plans. Final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed developments, as approved by the Commission, which may be recommended by the consultant, shall require an amendment to the permit or a new coastal development permit.

The Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will also add to the geologic stability of the project site. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicants to submit drainage and erosion control plans certified by the geotechnical engineer, as specified in **Special Conditions Three (3)** and **Four (4)**.

In addition, to ensure that excess excavated material is moved off site so as not to contribute to unnecessary landform alteration and to minimize erosion and sedimentation from stockpiled excavated soil, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a site that has been approved to accept fill material, as specified in **Special Condition Nine (9)**.

Further, the Commission finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition Four (4)** requires the applicant to submit landscaping plans certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. **Special Condition Four (4)** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall

be landscaped with appropriate native plant species, as specified in **Special Condition Four (4)**.

The Commission notes that because there remains some inherent risk in building adjacent to potential landslide features, which exist on the subject site, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by **Special Condition Five (5)**. The assumption of risk will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

**Special Condition Eleven (11)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restriction on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restriction are imposed on the subject property.

The Commission finds that the proposed project, as conditioned, will serve to minimize potential geologic hazards of the project site and adjacent properties, as outlined in §30253 of the Coastal Act.

### **Wildfire**

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wildfire. Typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, *Terrestrial Vegetation of California*, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wildfires. The typical warm, dry summer conditions of the Mediterranean climate combined with the natural characteristics of the native vegetation pose a risk of wildfire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition Five (5)**, the assumption of risk, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition Five (5), the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

## C. Visual Resources

Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. Section 30251 also requires that development be sited and designed to protect views of scenic areas, minimize alteration of landforms, and be visually compatible with the surrounding area. In the review of this project, the Commission reviews the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. The Commission examines the building site, the proposed grading, and the size of the building pad and structures and alternatives to the size, bulk and scale of the structures, and the potential to minimize landform alteration. The development of the residence raises two issues regarding the siting and design: (1) whether or not public views from public roadways will be adversely affected; or, (2) whether or not public views from public lands and trails will be affected.

The subject site is located in a residentially developed, designated significant ridgeline area along Saddle Peak in the Malibu/Santa Monica Mountains (**Exhibit 11**). The parcel is bounded by Sadie Road, Saddle Peak Road, and existing residences, except to the west, where there is vacant land and steep terrain. The site is readily visible from Saddle Peak Road, a designated scenic highway, as well as Sadie Road, a public roadway.

A public trail, the Tuna Canyon Trail, is planned along the eastern slope of Las Flores Canyon north to the Backbone Trail (**Exhibit 12**). In addition, public lands owned by the Santa Monica Mountains Conservancy are located about 0.5 miles to the south, and public lands owned by State Parks and Mountains Restoration Trust are located approximately 0.2 miles to the north (**Exhibit 13**). As a result, public views from this planned public trail and public lands could be adversely affected by the proposed development.

The applicant proposes to construct a two-story, 3,450 sq. ft. single-family residence with attached 850 sq. ft. subterranean garage, driveway, turnaround, septic system,

swimming pool, spa, retaining walls, and landscaping. The residence will be built into the top of the knoll with the garage partially subterranean. The building site is located immediately adjacent to Sadie Road, on a previously disturbed portion of the property, and as close as possible to the residence to the south. The proposed building site and design thereby minimizes the amount of grading and landform alteration necessary for the project. Grading for the project, including all slope trimming, will include 1,159 cu. yds. (996 cu. yds. cut; 163 cu. yds. fill). The proposed residence is not excessive in height or size and is compatible with other existing residential development in the area. As the proposed residence will be unavoidably visible from public viewing areas, the Commission finds it necessary to require mitigation measures to minimize visual impacts associated with development of the project site.

The visual impact of the proposed project can be minimized by requiring site structures be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows on the proposed residence be made of non-reflective glass. To ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed in **Special Condition Six (6)**.

Visual impacts associated with proposed grading, and the structures themselves, can be further reduced by the use of appropriate and adequate landscaping. Therefore, **Special Condition Four (4)** requires the applicant to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of Special Condition Four (4) will soften the visual impact of the development from public view areas. To ensure that the final approved landscaping plans are successfully implemented, Special Condition Four (4) also requires the applicant to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby scenic roads and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition Seven (7)** limits night lighting of the site in general, limits lighting to the developed area of the site, and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the nighttime rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area.

To ensure that excess excavated material is moved off site so as not to contribute to unnecessary landform alteration and to minimize erosion and sedimentation from stockpiled excavated soil, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a site that has been approved to accept fill material, as specified in **Special Condition Nine (9)**.

Finally, regarding future developments or improvements, certain types of development on the property, normally associated with a single-family residence, which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that any future development or improvements normally associated with the entire property, which might otherwise be exempt, is reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. **Special Condition Ten (10)**, the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Further, **Special Condition Eleven (11)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the project, as conditioned, minimizes adverse effects to public views to and along the coast and minimizes the alteration of natural landforms. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

#### **D. Environmentally Sensitive Habitat Areas**

Section **30230** of the Coastal Act states that:

***Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.***

Section **30231** states:

***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.***

Section **30240** states:

***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.***

***(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.***

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through, among other means, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Sections 30107.5 and 30240 of the Coastal Act state that environmentally sensitive habitat areas must be protected against disruption of habitat values.

Upon review of the subject property, Commission staff has confirmed that the parcel contains highly disturbed chaparral vegetation and has been partially cleared due to fuel modification associated with the neighboring residence to the south. In addition, review of the project's proposed fuel modification plan indicates that the required extent of vegetation modification shall not extend into any areas considered environmentally sensitive. Therefore, it is determined that the project site and the areas impacted by proposed fuel modification is not considered an Environmentally Sensitive Habitat Area (ESHA).

There is a cluster of small (less than six inches in diameter), isolated scrub oak trees on the southeast edge of the parcel (**Exhibit 3**). Due to the isolated and disturbed site conditions these oak trees also cannot be considered ESHA. However, through past permit actions on residential development in the Santa Monica Mountains the Commission and has found that native oak trees are an important coastal resource. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape. Although not ESHA, the oak trees on the site do provide some habitat for a wide variety of wildlife species and are considered to be an important part of the character and scenic quality of the area.

Oak trees are a part of the California native plant community and need special attention to maintain and protect their health. Oak trees in residentially landscaped areas often suffer decline and early death due to conditions that are preventable. Damage can often take years to become evident and by the time the tree shows obvious signs of disease it is usually too late to restore the health of the tree. Oak trees provide

important habitat and shading for other animal species, such as deer and bees. Oak trees are very long lived, some up to 250 years old, relatively slow growing becoming large trees between 30 to 70 feet high, and are sensitive to surrounding land uses, grading or excavation at or near the roots and irrigation of the root area particularly during the summer dormancy. Improper watering, especially during the hot summer months when the tree is dormant and disturbance to root areas are the most common causes of tree loss.

Encroachments into the protected zone of an oak tree, particularly of the nature proposed for several of the trees on the project site, can result in significant adverse impacts. An article entitled "Oak Trees: Care and Maintenance" prepared by the Forestry Department of the County of Los Angeles states:

***Oaks are easily damaged and very sensitive to disturbances that occur to the tree or in the surrounding environment. The root system is extensive but surprisingly shallow, radiating out as much as 50 feet beyond the spread of the tree leaves, or canopy. The ground area at the outside edge of the canopy, referred to as the dripline, is especially important: the tree obtains most of its surface water and nutrients here, as well as conducts an important exchange of air and other gases.***

This publication goes on to state:

***Any change in the level of soil around an oak tree can have a negative impact. The most critical area lies within 6' to 10' of the trunk: no soil should be added or scraped away. ... Construction activities outside the protected zone can have damaging impacts on existing trees. ... Digging of trenches in the root zone should be avoided. Roots may be cut or severely damaged, and the tree can be killed. ... Any roots exposed during this work should be covered with wet burlap and kept moist until the soil can be replaced. The roots depend on an important exchange of both water and air through the soil within the protected zone. Any kind of activity which compacts the soil in this area blocks this exchange and can have serious long term negative effects on the trees.***

The applicant has submitted a grading plan that maps the trunks and drip lines of on-site oak trees in relation to proposed development and does not propose removal of any oak tree. However, the extent of proposed slope trimming in relation to the oak trees is not adequately identified on the grading plan. Therefore, **Special Condition One (1)** requires the applicant to submit revised grading plans showing that no grading shall occur within the drip line of any oak tree on-site. To ensure that oak trees are protected during grading and construction activities, **Special Condition Twelve (12)** requires the applicant to install protective barrier fencing around the drip line of all on-site oak trees during construction operations. In addition, **Special Condition Twelve (12)** specifies

that the applicant shall provide on-site oak tree mitigation, at a 10:1 ratio, in the event that any oak tree is damaged or lost.

Finally, to ensure the oak trees on-site are not adversely affected by irrigation or inappropriate landscaping, **Special Condition Four (4)** includes a provision that prohibits permanent irrigation within the dripline or within the five-foot protected zone of oak trees and limits landscaping within the dripline and protected zone to native oak tree understory plant species.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

### **E. Water Quality**

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.***

The project site is located within the Las Flores Canyon watershed. While no development is proposed in any natural drainages on-site, the proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on-site. The reduction in permeable space leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity

which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Three (3)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

In addition, the applicant proposes to construct a swimming pool and spa that may use chemicals such as chlorine and algaecides that if drained from the site may be harmful to plants and animals in nearby environmentally sensitive habitat areas and creeks. The Commission notes that the proposed project is conditioned to incorporate the recommendations of the project's consulting geologists and geotechnical engineer related to the construction of the swimming pool and spa and to incorporate adequate site drainage and erosion control.

However, the Commission also notes that both leakage and periodic maintenance drainage of the proposed swimming pool and/or spa, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing the instability of the site and adjacent properties and potential impacts from pool chemicals (i.e. pool water algaecides, chemical pH balancing, and other water conditioning chemicals) on ESHA and the watershed. Therefore, the Commission imposes **Special Condition Eight (8)** on the subject application, which requires the applicant to use a

non-chemical water purification system and to maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool and spa will not include excessive chemicals that may adversely affect the environmentally sensitive habitat areas.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Four (4)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

The applicant is proposing to construct a septic system, consisting of a 1,500 gallon septic tank and seepage pits, to accommodate the sewage of the proposed development. The County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The County of Los Angeles' minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils within the Santa Monica Mountains, among other criteria. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

#### **F. Violation**

As a part of this coastal development permit application, the applicant requests after-the-fact approval of a lot line adjustment concerning the subject parcel (Lot 1; APN 4438-037-036) and the adjacent parcel to the south (Lot 2; APN 4438-037-035) that is under separate ownership. The lot line adjustment resulted in the exchange of two 1,174 sq. ft. equal area slivers of land along the shared property boundary necessitated by the encroaching driveway associated with the residence to the south (**Exhibit 10**). The applicant and adjacent property owner were granted a Certificate of Compliance for Lot Line Adjustment (No. 100, 730) from Los Angeles County in 1989 that was recorded on April 27, 1989. However, the lot line adjustment has occurred without the benefit of a coastal development permit. In order to resolve the unpermitted lot line adjustment the applicant included it as part of this permit application. The proposed lot line adjustment will not result in any additional lots, create non-conforming lots, or create lot configurations that could increase residential density. Lot 2 is currently developed with a single family residence. The applicant is proposing a new single family residence on Lot 1. In addition, the reconfigured lots will continue to have adequate public services including water and electricity.

In order to ensure that the violation aspects of this development is resolved in a timely manner, **Special Condition Thirteen (13)** requires that the applicant satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 180 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

## **G. Local Coastal Program**

Section 30604 of the Coastal Act states:

***a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).***

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

## **H. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.